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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	94002525
Party	Applicant Boi Na Braza, Inc.
Correspondence Address	JUSTIN S COHEN THOMPSON & KNIGHT LLP 1722 ROUTH STREET, SUITE 1500 DALLAS, TX 75201-2532 UNITED STATES justin.cohen@tklaw.com, deborah.lively@tklaw.com
Submission	Other Motions/Papers
Filer's Name	Cindy Holland
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Signature	/Cindy Holland/
Date	08/21/2012
Attachments	Motion to change name.pdf (10 pages)(141066 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BOI NA BRAZA, INC.,

Applicant,

vs.

TERRA SUL CORPORATION A/K/A
Churrascaria Boi Na Brasa,

Excepted User.

Concurrent Use No. 94002525

Ser. No. 77/779,339

Applicant's Motion to Change Name of Board Proceeding Pursuant to TBMP § 512.02

Applicant Boi Na Braza, Inc. ("Boi Na Braza" or "Applicant") hereby requests The Trademark Trial and Appeal Board (the "Board") to change the title of the above-captioned concurrent use proceeding pursuant to TBMP § 512.02.

BACKGROUND

1. On July 13, 2009, Applicant filed Application No. 77/779,339 to register the mark BOI NA BRAZA for "restaurant and bar services" for the entire United States except for the state of New Jersey (the "Application").
2. On August 13, 2009, Applicant executed a Certificate of Conversion effecting a conversion of the converting entity, Boi Na Braza, Inc., a Texas corporation, to the converted entity, Boi Na Braza, LLC, a Texas limited liability company.
3. A copy of the Certificate of Conversion is attached as Exhibit A.
4. On August 20, 2009, the Certificate of Conversion was filed with the Corporations Section of the Secretary of State of Texas.

5. On August 23, 2010, Excepted User filed a Notice of Opposition against concurrent use Application No. 77/779,339.

6. On December 13, 2011, the Board dismissed Opposition No. 91196845 without prejudice and instituted the present proceeding, Concurrent Use No. 94002525 (the “Concurrent Use Proceeding”).

ARGUMENT

The title of an *inter partes* proceeding before the Board may be changed upon motion, or upon the Board’s own initiative, if the name of a party to the proceeding is changed, provided that appropriate evidence thereof is made of record in the proceeding. TBMP § 512.02.

Applicant seeks by this motion to change Applicant’s name in the title of this Concurrent Use Proceeding.

At the time the Application was filed, Applicant’s correct name was Boi Na Braza, Inc. Applicant subsequently executed and filed with the Texas Secretary of State a Certificate of Conversion to convert the corporation into a limited liability company. The surviving entity is named Boi Na Braza, LLC. The Certificate of Conversion is attached as Exhibit A.

CONCLUSION

The Certificate of Conversion evidencing Applicant’s change of name has been made of record through the filing of this motion. Accordingly, Applicant respectfully moves the Board to change the title of the Concurrent Use Proceeding to reflect the Applicant’s name as Boi Na Braza, LLC.

Dated: August 21, 2012

Respectfully submitted,

BOI NA BRAZA, LLC

By: /s/ Justin S. Cohen
Herbert J. Hammond
Deborah L. Lively
Justin Cohen

Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201

ATTORNEYS FOR APPLICANT
BOI NA BRAZA, LLC

EXHIBIT A

**CERTIFICATE OF CONVERSION
OF
BOI NA BRAZA, INC.
CONVERTING INTO
BOI NA BRAZA, LLC**

FILED
In the Office of the
Secretary of State of Texas

AUG 20 2009

Corporations Section

Pursuant to the provisions of Sections 10.154 – 10.156 of the Texas Business Organizations Code (the "TBOC"), the undersigned converting entity certifies the following Certificate of Conversion has been adopted for the purpose of effecting a conversion in accordance with the provisions of the TBOC.

Article I

The name of the converting entity is Boi Na Braza, Inc., a Texas corporation (the "Converting Entity"), formed effective June 24, 1999. The file number issued to the Converting Entity by the Texas Secretary of State is 154080100.

Article II

The name of the converted entity is Boi Na Braza, LLC, a Texas limited liability company (the "Converted Entity"). The Converted Entity created as of the date hereof is the surviving entity of such conversion.

Article III

The Plan of Conversion (the "Plan of Conversion") has been approved by all shareholders of the Converting Entity and duly authorized by all action required by the laws of the State of Texas, including the TBOC, and the Converting Entity's constituent documents.

Article IV

The address of the principal place of business of the Converting Entity is 415 Duncan Perry Road, Arlington, Texas 76011. An executed Plan of Conversion is on file at such address. The address of the principal place of business of the Converted Entity is 415 Duncan Perry Road, Arlington, Texas 76011. An executed Plan of Conversion will be on file, from and after the conversion, at such address.

Article V

A copy of the Plan of Conversion will be furnished by the Converting Entity, prior to the conversion, or the Converted Entity, from and after the conversion, on written request and without cost, to any shareholder of the Converted Entity.

Article VI

The Certificate of Formation of the Converted Entity is attached to this Certificate of Conversion.

RECEIVED

AUG 20 2009

Secretary of State

Article VII

The Converted Entity shall become liable for the liabilities of the Converting Entity, including the payment of any required franchise taxes.

Article VIII

The conversion is to be effective when the Certificate of Conversion is accepted and filed by the Secretary of State.

SIGNED this 13 day of August, 2009.

CONVERTING ENTITY

BOI NA BRAZA, INC.
a Texas corporation

By: 

Julio Matheus, President

EXHIBIT A
CERTIFICATE OF FORMATION FOR
BOI NA BRAZA, LLC

**CERTIFICATE OF FORMATION
OF
BOI NA BRAZA, LLC**

FILED
In the Office of the
Secretary of State of Texas
AUG 20 2009

Pursuant to Section 3.005 of the Texas Business Organizations Code

Corporations Section

Article I

The name of the limited liability company is Boi Na Braza, LLC (the "Company").

Article II

The Company is formed for the purpose of conducting any lawful activities which a limited liability company may conduct.

Article III

The address of the registered office in the State of Texas is 415 Duncan Perry Road, Arlington, Texas 76011. The name of the registered agent at such address is Julio Matheus.

Article IV

The Company is formed under a Plan of Conversion.

Article V

Prior to the Plan of Conversion, the Company's name was Boi Na Braza, Inc., its address was 4025 William D. Tate Ave., Grapevine, Texas 76051, its date of formation was June 24, 1999, its prior form of organization was as a Texas corporation, and it was formed in the State of Texas.

Article VI

The powers of the Company shall be exercised by or under the authority of and the business and affairs of the Company shall be managed under the direction of one (1) or more Managers. The name and address of the person who is to serve as initial Manager until the first annual meeting of Members or until a successor is duly elected is:

NAME:

ADDRESS:

Julio Matheus

415 Duncan Perry Road
Arlington, TX 76011

Article VII

Except as and to the extent the Agreement specifically provides otherwise, a Member or Manager shall not be liable for the debts, obligations, or liabilities of the Company including under a judgment, decree, or order of a court. A Manager shall not be personally liable to the Company or any of its Members for any monetary damages for any act or omission in his capacity as a Manager except that this Article does not eliminate or limit the liability of a

Manager to the extent the Manager is found liable for (a) a breach of the Manager's duty of loyalty to the Company or its Members, (b) an act or omission not in good faith that constitutes a breach of duty of the Manager to the Company or an act or omission that involves intentional misconduct or a knowing violation of the law, (c) a transaction from which the Manager received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Manager's office, or (d) an act or omission for which the liability of a Manager is expressly provided by a statute of the State of Texas. Any repeal or modification of this Article or the Agreement shall be prospective only and shall not adversely affect any limitation of the personal liability of a Manager or Member of the Company at the time of the repeal or modification. In addition to the circumstances in which the Manager of the Company is not liable as set forth in the preceding sentences, the Manager shall not be liable to the fullest extent permitted by any provision of the statutes of the State of Texas hereafter enacted that further limits the liability of a manager or director of a corporation.

Article VIII

Any action required by the Code or the Agreement to be taken at any annual or special meeting of Members, or any action which may be taken at any annual or special meeting of Members, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holder or holders of membership interest having not less than the minimum number of votes that would be necessary to take such action at a meeting which the holders of all membership interests entitled to vote on the action were present and voted. Prompt notice of the taking of any action by the Members without a meeting by less than unanimous written consent shall be given to those Members who did not consent in writing to the action.

Article IX

The power to adopt, alter, amend, or repeal the Agreement or this Certificate shall be vested by the Agreement in the Members.

Article X

The name and address of the organizer is Julio Matheus, 415 Duncan Perry Road, Arlington, Texas 76011.

IN WITNESS WHEREOF, the Company has caused this Certificate of Formation to be executed this 13 day of August, 2009.

BOI NA BRAZA, LLC

By: 

Julio Matheus, Manager

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TERRA SUL CORPORATION A/K/A
Churrascaria Boi Na Brasa,

Excepted User.

Concurrent Use No. 94002525

Ser. No. 77/779,339

CERTIFICATE OF SERVICE

I certify that I served the foregoing document and all exhibits on Excepted User through its attorney of record, Eamon J. Wall, via First Class Mail on August 21, 2012, at the following address:

Eamon J. Wall
Wall & Tong, LLP
25 James Way
Eatontown, New Jersey 07724

/s/ Justin S. Cohen
Justin Cohen